

PATENT APPLICATION 10/764,106
DOCKET NO. 4975
CONFIRMATION NO.: 7913

**IN THE
UNITED STATES PATENT AND TRADEMARK OFFICE**

INVENTOR(S): ALOIS A. LANGER

SERIAL NO.: 10/764,106 OFFICE OF PETITIONS

FILED: 01/23/2004 ATTORNEY: DEREK L. WOODS

SUBJECT: DEFIBRILLATION SYSTEM FOR NON-MEDICAL ENVIRONMENTS

Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

RESPONSE TO EXAMINER'S DECISION ON PETITION
(MAILED AUGUST 11, 2011)

and,

RENEWED PETITION UNDER 37 CFR 1.137 (b) FOR REVIVAL OF APPLICATION
ABANDONED UNINTENTIONALLY

In Response to the Examiner's Decision On Petition mailed August 11, 2011, please enter the following remarks and evidence of record.

REMARKS

Applicant respectfully requests reconsideration and further examination of the Petition for Revival of this application.

Applicant's Petition filed July 22, 2011 was dismissed. The PTO Attorney's Decision On Petition for Revival of this application was mailed August 11, 2011. This is to respond to the Decision with added evidence and these remarks, renew Applicant's earlier Petition, and incorporate by reference Applicant's earlier Petition.

Applicant's earlier Petition was dismissed because the PTO Attorney did not know whether Applicant, Alois A. Langer, who signed the earlier Petition, was authorized to act in this application, and whether Mr. Langer was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue.

In response, Applicant respectfully submits:

1. His own Declaration about the delay at issue from his point of view;
2. The Declaration of Jack Maskowitz, Secretary/Treasurer of Cardiac Telecom Corp., the owner corporation of record, about the delay at issue from his/the corporation's point of view;
3. An assignment dated June 20, 2011 to Mr. Langer from Mr. Maskowitz of all Mr. Maskowitz's personal rights to the subject patent application and invention due to his status as a secured creditor of the corporation (Joint Exhibit 1 – "joint" because this first assignment document is referred to in both Mr. Langer's Declaration – at item #18.a, and in Mr. Maskowitz's Declaration – at item #14); and
4. An assignment dated October 7, 2011 to Mr. Langer from Cardiac Telecom Corp., the owner corporation of record, of all its corporate rights to the subject patent application and invention, effective, nunc pro tunc, back to August 1, 2007 (Joint Exhibit 2 – "joint" because this second assignment document is also referred to in both Mr. Langer's Declaration – at item #18.b., and in Mr. Maskowitz's Declaration – at item #15). This second assignment is submitted with its cover sheet and fax receipt page as filed today with the PTO Assignment Recordation Branch. It is expected that this second assignment will be recorded before the PTO Attorney reviews this Response.

Respectively, the two Declarations of Mr. Langer and Mr. Maskowitz disclose and explain the story of this subject application and invention being a non-monitored corporate asset of Cardiac Telecom Corp., with a non-acted-upon right of reversion in Mr. Langer. Summarily, the financial struggles of the corporation, including a bankruptcy filing and complete changeover of management personnel, resulted in a breakdown of record-keeping about the subject application and communication with reversioner Mr. Langer.

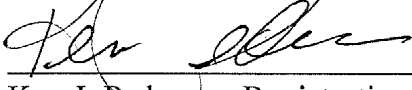
Accurately, both the Applicant Mr. Langer – at item #19 of his Declaration, and the corporation through Mr. Maskowitz – at item #16 of his Declaration, testify to the delay at issue being unintentional. Respectfully, these two Declarations are made by those persons considered by Applicant to have best firsthand or direct knowledge of the facts and circumstances of the delay at issue.

Also, the sum of the substance of the two Declarations and the two Assignments is that Mr. Langer was at least authorized regarding , and indeed may have been at least the equitable owner of , the subject application when he filed his earlier Petition on July 22, 2011.

In addition, a Power of Attorney and Change of Correspondence Address is also respectfully submitted by Applicant with this Response.

Applicant now believes the Petition For Revival of the subject application is in condition to be granted and respectfully requests the same.

Respectfully submitted,



Ken J. Pedersen, Registration No. 29,689
Barbara S. Pedersen, Registration No. 36,237
P.O. Box 2666
Boise, ID 83701-2666
Telephone: 208-343-6355
Facsimile: 208-343-6341

Date: 10/11/11

**IN THE
UNITED STATES PATENT AND TRADEMARK OFFICE**

INVENTOR(S): ALOIS A. LANGER

SERIAL NO.: 10/764,106 OFFICE OF PETITIONS

FILED: 01/23/2004 ATTORNEY: DEREK L. WOODS

SUBJECT: DEFIBRILLATION SYSTEM FOR NON-MEDICAL ENVIRONMENTS

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PO Box 1450
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**DECLARATION OF ALOIS A. LANGER, INVENTOR, IN SUPPORT OF RESPONSE
TO EXAMINER'S DECISION ON PETITION (MAILED AUGUST 11, 2011)**

In support of his Response to the Examiner's Decision On Petition mailed August 11, 2011, Alois A. Langer declares:

1. I am the inventor for the subject patent application.
2. I prepared and filed the provisional patent application No. 60/442,330, entitled "Defibrillation System for Home Use", from which the subject application claims priority, on January 24, 2003.
3. At that time, I was Chief Engineer of Cardiac Telecom Corporation ("Cardiac Telecom" or "the company"), a Pennsylvania corporation.
4. According to an agreement I made with Cardiac Telecom, I assigned the invention described in the provisional patent application to the company with the understanding that, if the company failed to prosecute the related patent application, the company would assign the invention back to me.

5. From about 1998, I was acting as a part-time employee of the company, responsible for engineering and other technical matters. Much of my work was done from Maryland.
6. My last contact with the patent law firm assisting Cardiac Telecom with the patent application was about mid-June, 2007. All correspondence with the law firm was being given to me by Lee Ehrlichman, the CEO of the company.
7. Cardiac Telecom's fortunes were not good, and by the summer of 2007, the company's cash flow problems became unsustainable. The CEO was fired in about July of 2007.
8. On about August 31, 2007, Cardiac Telecom filed for Chapter 11 bankruptcy in the Western District of Pennsylvania, case #07 – 25499-JKF. A restructuring team was brought in to manage the company.
9. I was a listed creditor in the bankruptcy, Creditor #6 – holding an unsecured non-priority claim.
10. It is my understanding that Cardiac Telecom did not list the subject patent application as an asset in the bankruptcy.
11. Occasionally, as a listed creditor, I received notices about the bankruptcy.
12. I received a copy of the bankruptcy court's Order (Docket Nos. 264/275), dated December 17, 2008, dismissing the bankruptcy case, but I did not understand exactly what that meant.
13. In the years after the summer of 2007, I did not act as an officer of Cardiac Telecom, I was not paid by or for the company, and I had practically zero professional interaction with people from the company.
14. After the summer of 2007, I was neither contacted by anybody about the patent application nor reminded by anybody about it (including not by the company patent attorneys and not by the Patent Office). I did occasionally ask the new management about the patent and was told they had no information about it. Effectively I did not know what happened to it, presuming it was property permanently lost (as were my debts from the company) due to the failure of the company and the company's bankruptcy, until April 28, 2011.

15. In late 2009 while updating my resume, I did a patent search using my name. The patent application was listed with a status of abandoned. Although I did not know how this had come about and it certainly was against my wishes, it confirmed my belief that the patent was permanently lost.
16. On April 28, 2011, I received an email from Dr. Walt Seale. He had talked to a patent attorney and the patent attorney had told him there was precedence for reviving an abandoned patent.
17. Since April 28, 2011, I have:
 - a. promptly- and diligently-gathered my remaining records about Cardiac Telecom;
 - b. interviewed my Cardiac Telecom colleagues, including Jack Maskowitz, the Secretary/Treasurer of the company, about the facts of my patent application agreement with the company and company records;
 - c. sought and obtained a funding arrangement to cover the fees and costs to revive and prosecute the subject patent application;
 - d. sought and retained a patent attorney to help revive and prosecute the subject patent application; and
 - e. filed my petition to revive the subject application.
18. When I filed my petition to revive the patent application on July 22, 2011, I believed I was authorized to act in the present application because:
 - a. I considered myself to be the owner of the application because it was assigned to me by Jack Maskowitz on June 20, 2011, whom I understood at that time to have received all the remaining assets of Cardiac Telecom after the company failure and bankruptcy (see Joint Exhibit 1); and
 - b. I considered myself to be entitled to be the owner of the application because of my earlier agreement with Cardiac Telecom for it to re-assign the invention to me if the company was not going to further prosecute the application – this was done October 7, 2011 effective back to August 1, 2007 (see Joint Exhibit 2).
19. Therefore, from my point of view, the entire delay in filing my petition with its required reply from the due date of the reply, February 17, 2008 until today was unintentional.

20. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements are made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Further Declarant saith not:

Signed: Alois A. Langer Date: 10/7/2011

Alois A. Langer

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SERIAL NO.: 10/764,106 OFFICE OF PETITIONS
FILED: 01/23/2004 ATTORNEY: DEREK L. WOODS
SUBJECT: DEFIBRILLATION SYSTEM FOR NON-MEDICAL ENVIRONMENTS

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PO Box 1450
Alexandria, VA 22313-1450

**DECLARATION OF JACK MASKOWITZ, SECRETARY/TREASURER, CARDIAC
TELECOM CORPORATION, IN SUPPORT OF RESPONSE TO EXAMINER'S
DECISION ON PETITION (MAILED AUGUST 11, 2011)**

In support of Alois A. Langer's Response to the Examiner's Decision On Petition mailed August 11, 2011, Jack Maskowitz declares:

1. I am the Secretary/Treasurer of the Applicant, Cardiac Telecom Corporation ("Cardiac Telecom" or "the company") in the subject application;
2. I was on the board of directors of the company when Alois A. Langer agreed to assign his relevant inventions to the company.
3. Mr. Langer's agreement with the company required the company to diligently pursue any of his patents assigned to the company or any rights would revert back to him.

4. By relevant inventions, I mean in the field of monitoring the heart of a patient as described in U.S. Patent 5,522,396, and U.S. Patent 5,966,692, or any new applications.
5. I understand that the subject application relates to a relevant invention, but no patent was obtained because the company failed to pursue the application, partly due to lack of company funds and bankruptcy filing beginning about the summer of 2007 and partly due to oversight of new employees.
6. As a board member I was generally familiar with the bankruptcy proceedings from a business operations point of view.
7. Also, as a secured creditor of the company I was generally familiar with the bankruptcy proceedings from a finance point of view.
8. However, during the bankruptcy proceedings, the subject patent application and the contingent right of Mr. Langer did not come up as a topic within the company that I remember.
9. Also, beginning about the summer of 2007, the company had intolerable cash flow problems and began completely restructuring. The long term CEO, Lee Ehrlichman was fired in approximately July of 2007 and I have since learned that Lee Ehrlichman was the contact person for the law firm handling the subject patent application. He and Dr. Langer were actually the only employees of the company familiar with the application. The new employees and new officers were not knowledgeable about all the past dealings of the company, and I and other members of the board, as well as the remaining officers and managers of the company with whom I was familiar, were concerned with the basic survival of the company, and certain details may have gone by unnoticed.
10. As a result of the company's financial problems and changes in management, the company mail and package reception, particularly to Mr. Ehrlichman, was not

attended to in any organized manner. The new employees also may have been unfamiliar with the significance of certain items.

11. Therefore, from about the summer of 2007 until about June 2011, when Mr. Langer recently contacted me about the subject patent application, I do not remember receiving any mail or any other notice about the application, I did not discuss it with anybody, including Mr. Langer, and nobody reminded me about it.
12. After Mr. Langer contacted me about the subject application on about June 2011, which is actually when I learned of its existence, and we discussed his earlier agreement with the company which I remember, I agreed that all rights to the application then belonged to Mr. Langer.
13. Also, as a secured creditor of the company, I eventually acquired all the company's remaining assets, including, as far as I could determine, the rights to the subject application because it was not mentioned anywhere in any other materials available recently to me.
14. This is why, when requested by Mr. Langer, I assigned any and all of my personal rights to the subject patent application asset to Mr. Langer on June 20, 2011 (see Joint Exhibit 1).
15. Also, this is why, to the extent that any rights to the subject application may still be considered to be an asset of Cardiac Telecom, I also assigned, as a corporate officer, these corporate rights to Mr. Langer on October 7, 2011 effective back to August 1, 2007 (see Joint Exhibit 2), the date I estimate to be closest to the date when the corporation should have assigned the subject application back to Mr. Langer according to the earlier agreement.

16. Also, this is why I believe that, from my perspective as a corporate officer, the entire delay on the part of the company (if any) in filing the required reply to the Patent Office, from the due date of the last Office Action until the filing recently by Mr. Langer of this Petition to revive the subject patent application, has been unintentional.
17. Also, this is why I believe that Mr. Langer, when he filed his recent petition to revive the subject patent application, was entitled to do so as owner and/or as authorized by the company.
18. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements are made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Further Declarant saith not:

Signed:  Date: 10-7-11

Jack Maskowitz, Secretary/Treasurer

Cardiac Telecom Corporation

Statement of Jack Maskowitz regarding patent application 20050027317

My name is Jack Maskowitz and I attest that this statement is true as I remember the facts. I was involved in the corporation Cardiac Telecom (the "Company") in several roles, the most important to this statement being a member of the board of directors and eventually a secured creditor.

The Company was founded by Dr. Alois Langer who, in addition, also invented the technology the Company was developing as is described in US patents 5,522,396 and 5,966,692. As I remember it, Dr Langer, who eventually became a consultant to the company, had a consulting agreement with the company which gave the company right of first refusal to any of his subsequent inventions. The company then had the obligation to diligently pursue the patent or any rights would revert back to Dr. Langer. I am aware of this agreement as a member of the board during the time Dr. Langer's consulting agreement was in place.

I have been told, though I don't specifically remember this application, that a patent application, 20050027317 serial # 764106, "Defibrillation System for Non-medical Environments" was assigned to the Company under this agreement. Due to a bankruptcy filing and lack of Company funds, the Company ceased pursuing the patent and it is my belief, as a former board member, that, under the terms of his agreement, all rights to this patent now belong to Dr. Langer.

The above notwithstanding, as a secured creditor of the Company, I eventually acquired all the remaining Company assets whatever they may be. I also hereby relinquish any rights I might have to the aforementioned patent application and assign all rights to Dr. Langer.

Assignment of Application

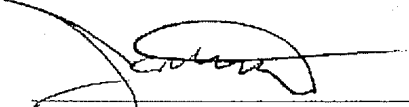
Whereas, I, Jack Maskowitz of Naples FL, hereafter referred to as "assignor", have acquired all the assets of Cardiac Telecom Corporation including all of Cardiac Telecom's patent rights; and

Whereas, among these is the invention "Defibrillation System for Non-medical Environments" for which an application for a United States Patent was filed on February 3, 2005, Application Number 20050027317; and

Whereas, Alois A. Langer of Harrison City Pennsylvania, the inventor, here referred to "assignee" whose mailing address is 111 Saddlebrook Dr. Harrison City PA 15636 is desirous of acquiring the entire right, title and interest in the same;

Now, therefore, in consideration of the sum of 1 dollar (\$ 1.00), the receipt whereof is acknowledged, and other good and valuable consideration, I, the assignor, by these presents do sell, assign and transfer unto said assignee the full and exclusive right to the said invention in the United States and the entire rights, title and interest in and to any and all Patents which may be granted therefore in the United States. I hereby authorize and request the Director of the U.S. Patent and Trademark Office to issue said United States Patent to said assignee, of the entire right, title, and interest in and to the same, for his sole use and behoof; and for the use and behoof of his legal representatives, to the full end of the term for which said Patent may be granted, as fully and entirely as the same would have been held by me had this assignment and sale not been made.

Executed this 20th day of June, 20 11.
at Norwin Messenger 7540 Rt. 30, Irwin PA 15042


Signature

State of Pennsylvania

SS:

Kristine J Perichak
Printed Name/Registration No., if applicable

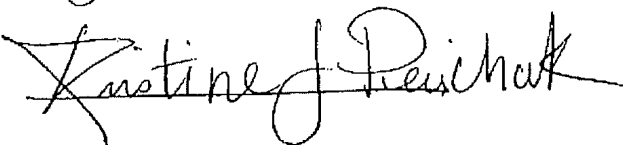
County of Westmoreland

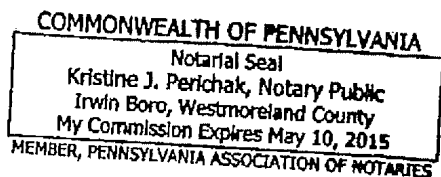
Before me personally appeared said Jack Maskowitz

and acknowledged the foregoing instrument to be his free act and deed this 20th

day of June, 20 11.

Seal





RECORDATION FORM COVER SHEET
PATENTS ONLY

To the Director of the U.S. Patent and Trademark Office: Please record the attached documents or the new address(es) below.

1. Name of conveying party(ies)

CARDIAC TELECOM CORPORATION, aka Cardiac Telecom, Inc., formerly known as Telemed Technologies International, Inc., a Pennsylvania corporation

Additional name(s) of conveying party(ies) attached? ☐ Yes ☒ No

3. Nature of conveyance/Execution Date(s):

Execution Date(s) OCTOBER 7, 2011

- ☒ Assignment ☐ Merger
☐ Security Agreement ☐ Change of Name
☐ Joint Research Agreement
☐ Government Interest Assignment
☐ Executive Order 9424, Confirmatory License
☐ Other _____

2. Name and address of receiving party(ies)

Name: ALOIS A. LANGER

Internal Address: _____

Street Address: 111 SADDLEBROOK DRIVE

City: HARRISON CITY

State: PA

Country: USA Zip: 15636

Additional name(s) & address(es) attached? ☐ Yes ☒ No

4. Application or patent number(s):

☐ This document is being filed together with a new application.

A. Patent Application No.(s)

B. Patent No.(s)

10/764,106

Additional numbers attached? ☐ Yes ☒ No

5. Name and address to whom correspondence concerning document should be mailed:

Name: PEDERSEN & CO., PLLC

Internal Address: _____

Street Address: 1410 N. 28TH STREET

City: BOISE

State: IDAHO Zip: 83703

Phone Number: 208-343-6355

Fax Number: 208-343-6341

Email Address: IP@PEDERSENCO.COM

6. Total number of applications and patents involved: ONE (1)

7. Total fee (37 CFR 1.21(h) & 3.41) \$ 40.00


- ☒ Authorized to be charged to deposit account
☐ Enclosed
☐ None required (government interest not affecting title)

8. Payment Information

Deposit Account Number 502236

Authorized User Name KEN J. PEDERSEN

9. Signature:


Signature

10/11/11
Date

KEN J. PEDERSEN

Name of Person Signing

Total number of pages including cover sheet, attachments, and documents:

4

ASSIGNMENT OF INVENTION(S), PATENT APPLICATION(S) AND/OR PATENT(S)

CARDIAC TELECOM CORPORATION, aka Cardiac Telecom, Inc., formerly known as Telemed Technologies International, Inc., a Pennsylvania corporation (hereinafter designated as the Assignor) with a registered office address of 503 Braddock Ave, Turtle Creek, PA 15145, in consideration of good and valuable consideration paid to it, agrees to assign, and hereby does assign, transfer and set over to ALOIS A. LANGER (hereinafter designated as the Assignee) at the address of 111 SADDLEBROOK DRIVE, HARRISON CITY, PA 15636, effective August 1, 2007, nunc pro tunc, according to an earlier agreement between the parties hereto, the entire right, title and interest in and to the invention known as **"DEFIBRILLATION SYSTEM FOR NON-MEDICAL ENVIRONMENTS,"** for which an application was filed in the United States Patent and Trademark Office on **JANUARY 23, 2004** and given Serial No. **10,764,106** which patent application(s)/patent(s) are also hereby assigned, transferred, and set over to Assignee. Assignor also agrees to assign, and hereby does assign, any and all future U.S. design and utility patent applications (including provisional, non-provisional, continuation, continuation-in-part, and divisional applications), PCT applications, and National Phase applications claiming priority of the above-identified application(s). Assignor hereby gives the office of Pedersen & Company, PLLC permission to fill in the filing dates and the serial numbers, when known, of said future U.S. design and utility patent applications, PCT applications, and National Phase applications:

1) Assignor agrees to execute all papers necessary or convenient in connection with each application to protect the invention, and any continuation, continuation-in-part, or divisional applications thereof, and also to execute separate assignments in connection with such applications or any resulting patents as the Assignee may deem necessary or expedient.

2) Assignor agrees to execute all papers necessary or convenient in connection with any interference which may be declared concerning any application relating to the invention, or any continuation, continuation-in-part, or division thereof and any resulting patents, and to cooperate with the Assignee in every way possible in obtaining evidence and going forward with any such interference.

3) Assignor agrees to execute all papers and documents and perform any act which may be necessary or convenient in connection with provisions of foreign patent offices, including those operating under the Patent Cooperation Treaty (PCT), International Convention for Protection of Industrial Property, or similar treaties or agreements regarding any application and any resulting patents relating to the invention.

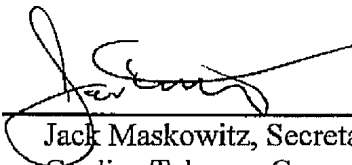
4) Assignor agrees to perform all affirmative acts which may be necessary or convenient to obtain grants of valid patents relating to the invention to the Assignee.

5) Assignor hereby authorizes and requests the Commissioner of Patents and Trademarks, and all equivalent foreign patent office officials, to issue any and all Letters Patent resulting from said applications or any continuation, continuation-in-part, or divisional

applications thereof, to the said Assignee, as Assignee of the entire interest, and hereby covenants that Assignor has full right to convey the entire interest herein assigned, and that Assignor has not executed, and will not execute, any agreement in conflict herewith.

6) Assignor hereby grants the Assignee and its duly authorized representatives the power to insert on this Assignment any further identification which may be necessary or desirable in order to comply with the rules of the United States Patent and Trademark Office, and any equivalent foreign patent office, for recordation of this document.

NOW THEREFORE, Assignor hereby forever transfers and assigns unto Assignee all right, title, and interest, in and to the subject invention(s); the same to be held and enjoyed by Assignee, its heirs, successors, assigns, and legal representatives, as completely as if the inventions would have been held by Assignor had this assignment not been made, including the right to sue for past infringements.

Date 10-7-11 Signature 
Jack Maskowitz, Secretary/Treasurer
Cardiac Telecom Corporation

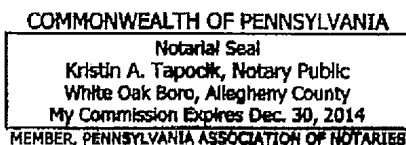
State of PA)


S. S.

County of Allegheny)

On this 7th day of October, in the year of 2011, before me
Kristin A. Tapock, personally appeared **Jack Maskowitz**, known or identified to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same.

S
E
A
L



Notary Public 
My Commission Expires On 12/30/14

TRANSMISSION VERIFICATION REPORT

TIME : 10/11/2011 14:13
NAME : PEDERSEN AND COMPANY
FAX : 2083436341
TEL : 2083436355
SER.# : 000B4J123837

DATE, TIME	10/11 14:12
FAX NO./NAME	15712730140
DURATION	00:01:20
PAGE(S)	04
RESULT	OK
MODE	STANDARD
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